

**COMMISSION FOR MENTAL HEALTH,  
DEVELOPMENTAL DISABILITIES, AND  
SUBSTANCE ABUSE SERVICES**

**Holiday Inn-North  
2805 Highwoods Blvd., Raleigh, NC 27604**

**Thursday, August 17, 2006**

**Attending:**

**Commission Members:** Pender McElroy, Marvin Swartz, MD, Laura Coker, Clayton Cone, Dorothy Crawford, Ann Forbes, Mary Kelly, Judy Lewis, Emily Moore, Carl Shantzis, Ed.D., CSAPC, Fredrica Stell, Lois Batton, Pearl Finch, Mazie Fleetwood, Paul Gulley, MD, George Jones, Martha Macon, Martha Martinat, Jerry Ratley, William Sims, MD, Tom Ryba, Richard Brunstetter, Ph.D, Connie Mele, and Ellen Russell

**Commission Members Excused:** Floyd McCullouch, Ellen Holliman, Anna Scheyette

**Ex-Officio Committee Members:** Joe Donovan, Bob Hedrick, Robin Huffman

**DMH/DD/SAS Staff:** Michael Moseley, Leza Wainwright, Steven Hairston, Chris Phillips, Flo Stein, Denise Baker, Cindy Kornegay, Darryl Bass, Sonya Brown, Johnny Womble, Jason Reynolds, Stuart Berde, John Sullivan, Tracy Ginn, Vanessa Holman

**Others:** Verla Insko, Christine Trottier, Louise Fisher, Kent Earnhardt, Gerale Condron, Katy Sawyer

**Handouts:**

**Mailed Packet:**

August 17, 2006 Commission for MH/DD/SAS Agenda  
Draft May 18, 2006 Commission Meeting Minutes  
Draft July 13, 2006 Rules Committee Minutes  
Draft July 12, 2006 Advisory Committee Minutes  
Attachment A Scope of Workforce Development  
Attachment B Summary of Brainstorming  
10A NCAC 27G .3803 Alcohol and Drug Education Traffic School (ADETS)  
10A NCAC 26E .0600 Controlled Substances Reporting Systems  
10A NCAC 27I .0600 Non-Medicaid Appeal Process  
Rule Reference Material

**Additional Handouts:**

DMH/DD/SAS Budget Approved by General Assembly, SB 1741  
DMH/DD/SAS 2007 Legislative Requirements  
Overview of Session Law 2006-186, Senate Bill 686  
NC Session 2005- Session Law 2006-186, Senate Bill 686  
Commission for MH/DD/SAS Proposed Meeting Schedule for 2007  
Comment Grid on Controlled Substances Reporting Updated 8/15/2006  
NC Medical Society Letter Re: Comments Re: Rule Proposed by Commission for MH/DD/SAS to Establish Controlled Substances Reporting System Pursuant to N.C.G.S. 90-113.70  
NC Retail Merchants Association Letter Re: Proposed Rules 10A NCAC 26E. 0601-.0604 Controlled Substances Reporting System  
NC Division of MH/DD/SA Services Transformation Update Town Hall Meetings Schedule  
NC Division of MH/DD/SAS Rights and Empowerment Conference 2006 Registration/Brochure  
18<sup>th</sup> Annual Thad & Alice Eure Walk for Hope 2006 Registration/Brochure  
Commission for MH/DD/SAS updated Roster

### **Call to Order.:**

Pender McElroy, Chairman, called the meeting to order at 9:40 a.m. Emily Moore delivered the invocation.

Mr. McElroy welcomed all attendees and asked the Commission members, Division staff, and other attendees to introduce themselves and identify their relationship to the Commission and the source of their interest in mental health related issues. Mr. McElroy introduced and welcomed Richard Brunstetter, PhD, to the Commission. Dr. Brunstetter, of Forsyth County, is a recent Senate appointee to the Commission. He will serve the unexpired term of Dr. Stephen Buie.

Mr. McElroy introduced Representative Verla Insko and expressed appreciation of her attendance and participation in the day's meeting.

Representative Insko delivered a presentation to the Commission which focused upon three primary areas of interest.

1. Local Management Entity (LME) funding allocations and the role of the LME: The Legislative Oversight Committee (LOC) has been asked to consider a fair way to distribute state monies to the LME's. State funded services are not an entitlement program; funding for state services is dependent upon funding availability. The LOC is aware of the stewardship role which must be assumed such that appropriate services may be provided to as many consumers as possible. Questions have been raised regarding the need to eliminate categorical funding. However, many are fearful that if categorical distinctions are eliminated each discrete group will suffer loss of funding. Attempts will be made to identify funding to serve non-Medicaid eligible individuals. DHHS will conduct a study in an attempt to address this need.
2. Attempts to define Care Coordination: Care coordination involves a philosophy which clarifies the role of the government and the public sector in providing oversight to the market system. Ultimately, the taxpayer is the buyer of Medicaid funded services. Elected officials have a responsibility to ensure appropriate funding for services. This rationale necessitates care coordination. The LME's role is to represent the taxpayer through a system of care coordination. This requires a distinction between care coordination and case management. The market system is based upon true competition which entails the following tenets.
  - a. True competition instead of a monopoly
  - b. Informed consumers with an ability to choose
  - c. Government regulation to decrease the existence of a monopoly
3. Services for each disability group: There is a need for a long term study regarding service gaps and the funding necessary to fill those gaps. This has generated the following questions.
  - a. Whether the First Level Commitment Pilot program should be continued and expanded upon
  - b. Whether there should exist a state service package with the LME providing utilization review functions for state funded services

Representative Insko discussed the membership of the Commission and indicated that the Commission should be comprised of representatives from each congressional district. She expressed concern regarding whether this requirement has been met.

Responding to questions from the Commission, Representative Insko addressed the following issues.

1. Source of input to the LOC
2. Formula for funding services and the need for additional monies
3. Management of bed days and the roles of providers/LME's
4. Fragmentation of services
5. Liaison staff from the LOC to the Commission
6. Communication between LME's and CFAC's
7. Staff support to the Commission and the need for funding to address this issue
8. Categorical funding and limits imposed by federal and state regulations
9. Licensure requirements for professionals
10. Impact of reform upon decisions made by Law Enforcement personnel in responding to assessment/involuntary commitment issues
11. Role of the LME as provider of services in the absence of other provider agencies

Representative Insko indicated that information about ongoing LOC activities is located on its website.

The order of agenda items was altered to permit the early departure of Dr. Marvin Swartz and Denise Baker.

### **Advisory Committee's Report**

Dr. Marvin Swartz, Committee Chair, presented the Advisory Committee's report of its July 2006 meeting. He reiterated the Advisory Committee's decision to focus its attention on the issue of workforce development. The Committee has had brainstorming sessions in an effort to identify the scope of workforce development and to develop an approach to the issue. Issues considered in the July 2006 meeting included: what should the workforce development plan include; what are the goals of workforce development; what is the end product of the Committee's efforts. Staff of the DMH/DD/SAS prepared a list of areas to be considered which served as the impetus for the discussion. The Advisory Committee agreed to move forward with workforce development through three groups.

1. Governance Committee – responsible for researching and defining system functions and policy clarity between the DMH, LME's, providers, and stakeholders.
2. Data and Information Workgroup – responsible for providing analysis of labor market information and statistical data related to the present and future workforce.
3. Professional Staff Development Workgroup – comprised of the Advisory Committee in its entirety and will examine all aspects of the provision of care across disability categories.

The Advisory Committee is aware that one of the most pressing issues, at both the state and national level, is the issue of recruitment and retention of the mental health workforce. One role of the Governance Committee is to "shine the light" on the problem of workforce development and to engage other stakeholders, university and Area Health Education Centers (AHECs), in addressing the issue. The Advisory Committee hopes to begin work through the subgroups in the near future.

The next meeting of the Advisory Committee is scheduled to convene Wednesday, October 18, 2006.

### **Approval of Minutes**

***Upon motion, second, and unanimous vote, the Commission approved the minutes of the May 18, 2006 Commission meeting as submitted.***

### **Chairman's Report**

Mr. McElroy again welcomed Dr. Brunstetter to the Commission. Dr. Brunstetter is a new Senate appointee to the Commission who will serve the unexpired term of Dr. Stephen Buie. He has expressed interest in serving on the Advisory Committee but will confirm his intent at a later date.

Mr. McElroy congratulated Clayton Cone who has been named Chief Operating Officer of Rainbow Center for Family and Children's Services in Wilkesboro, NC. Mr. McElroy wished Mr. Cone well in his new venture.

Mr. McElroy announced that Yvonne Copeland is the new Executive Director of the NC Council. Ms. Copeland will serve as an Ex Officio Member of the Rules Committee.

Mr. McElroy announced the recent reappointment of the following members to the Commission.

Appointed by Governor Easley

1. Laura Coker
2. Mazie Fleetwood
3. Dr. Paul Gulley
4. Mary Kelly
5. Connie Mele
6. Dr. William Sims
7. Martha Martinat
8. Dorothy Rose Crawford

Appointed by the House of Representatives

1. Ellen Holliman
2. Dr. Marvin Swartz

Appointed by the Senate

1. Tom Ryba
2. Dr. Brunstetter

Mr. McElroy congratulated each member on his/her reappointment and expressed appreciation that their service to the Commission will continue for another three year term. Each reappointment term is scheduled to expire June 2009. Dr. Brunstetter's term will expire June 30, 2008.

Mr. McElroy asked the Commission members to consider the tentative schedule for the 2007 Commission meeting and be prepared to adopt or revise it at the November meeting.

### **DMH/DD/SAS Director's Report**

Michael Moseley, Director DMH/DD/SAS, began by thanking the Commission for its dedicated service to the citizens of North Carolina and by congratulating recent reappointees to the Commission.

The DMH is scheduled to resume the Town Hall meetings with implementation of the following schedule.

- |                       |                |
|-----------------------|----------------|
| 1. September 20, 2006 | Sylva          |
| 2. November 7, 2006   | Winston-Salem  |
| 3. March 7, 2007      | Kenansville    |
| 4. June 6, 2007       | Elizabeth City |

Dorothy Crawford requested that a "blurb" describing the purpose and location of the Town Hall meetings be provided to the Commission members for submission to local media (newspaper, radio).

Mr. Moseley thanked Representatives Insko and Nesbitt for their leadership and perseverance during the recent legislative session and for their oversight of the LOC. Mr. Moseley described the recent session as one of the most successful sessions for MH/DD/SAS that he has ever witnessed.

Mr. Moseley described his recent participation in conferences held in New Orleans and Florida. The Florida meeting involved federal emergency management agencies. Mr. Moseley was accompanied by a 10 member team from North Carolina. Mr. Moseley also attended the Mental Health Transformation Conference in New Orleans. This meeting included representatives from the State Medicaid system. Increasing compliance with the President's New Freedom Commission Report was an item of discussion during the New Orleans Conference.

Mr. Moseley indicated that he has attended a regional meeting as well. This meeting culminated in the development of two templates – a template for community programs as well as a template for state facilities. These were submitted for review and response. While not mandatory, the templates would provide guidance in responding to disasters. The templates could be revised to meet each agency's need.

Mr. Moseley provided a report on the short session of the legislature and monies appropriated for mental health related initiatives. He also discussed activity related to rulemaking and emphasized DMH's adherence to the time tables identified.

Leza Wainwright then provided a detailed description of monies designated in Senate Bill 1741 and its implications for mental health services as well as for the Commission. A copy of this report is attached.

### **Rules Committee Report**

Mr. McElroy provided a brief overview of the report from the July 13, 2006 Rules Committee meeting.

Mr. McElroy indicated that the Rules Committee considered and recommended rule changes that will be addressed by the Commission during this meeting. Mr. McElroy then read an opinion letter submitted by Rich Slipsky, Assistant Attorney General. This opinion indicates that the Commission is legally mandated to develop a training program for retailers. Mr. McElroy indicated that the Rules Committee will address this issue and present a recommendation to the Commission.

### **Presentations by Advocates**

Mr. McElroy reminded the Commission of its decision to invite individuals from various segments of the community to address the Commission in an effort to apprise the Commission of mh/dd/sa issues and their impact upon the community. He then introduced Katie Sawyer and Gerale Condon. Both are advocates invited by the Rules Committee to address the Commission.

Ms. Sawyer identified herself as a resident of the Tideland catchment area and reported having served on that area's Consumer and Family Advisory Committee (CFAC) for approximately 3½ years. She described a sense of intimidation and frustration at not being able to obtain information necessary to make an informed decision regarding her son's care. Ms. Sawyer indicated that her son is mentally ill and reported having experienced difficulty locating services for him during the first seven years of his diagnosis. Ms. Sawyer described her experience with the CFAC as frustrated by the expectation that any disagreement with the Area Director's goals was unacceptable.

Questioned about the process of appointing individuals to the CFAC, Chris Phillips, Chief, DMH/DD/SAS Advocacy and Customer Services Section, indicated that initially appointments were comprised of consumer and family stakeholder groups within the community. CFAC appointment processes differ across the state because of the autonomy of individual CFACs. In some instances, members of the CFAC appoint new members to its committee. In other instances, members of the CFAC review applications and submit recommendations to area board members who, in turn, appoint members to the CFAC. Tideland CFAC members are appointed by the area board of directors.

Questioned about Commission authority to write rule governing the CFACs, Cindy Kornegay, DMH/DD/SAS Rulemaking Coordinator, responded that neither the Commission nor the Secretary has been given explicit rulemaking authority regarding CFACs. Mr. McElroy expressed interest in determining the Commission's authority regarding the LME and the Director of the LME.

Questioned about a conflict of interest policy regarding CFAC involvement, Chris Phillips indicated that the State Plan did not outline a conflict of interest policy. Rather, each community was permitted to adopt its own policy. The State CFAC adopted a rigid conflict of interest policy that excludes LME, provider, and DMH staff. The State CFAC has encouraged the local CFACs to develop its own conflict of interest policy but has not designated what that policy should be. Chris Phillips indicated that there is pressure by advocacy groups to have the role, membership, and responsibility of the CFAC codified in statute.

Commission members discussed the need for uniformity in administration of the CFAC and expressed concern over the Commission's ability to develop rule governing this process.

***Upon motion, second, and unanimous vote, the Commission voted to refer the issue of control of the CFAC membership as exerted by the LME to the Rules Committee for investigation and recommendations.***

Gerale Condon is a co-chair of the CFAC in the Eastpointe catchment area. She indicated that the CFAC there was tasked with writing a report on the local business plan but was challenged by limited awareness of mental health issues. She described being frustrated by limited input from the LME in the completion of this report. After efforts to identify the business structure of their CFAC, develop bylaws, and address budgetary issues, the CFAC was notified by Jack St. Claire, Area Director, Eastpointe, that the LME board of directors had given him the authority to take over the organization and appoint its chair. Ms. Condon expressed ongoing frustration at the lack of support and information provided to CFACs.

### **Review of Senate Bill 686**

Review of Senate Bill 686 was by written report submitted by Denise Baker.

### **Alcohol and Drug Education Traffic Schools (ADETS) 10A NCAC 27G .3803**

Jason Reynolds, DMH/DD/SAS Justice Systems Innovations Team, DWI Unit, presented the proposed amendment of this rule. Session Law 2005-312 directs the Commission to revise its rules regarding the number of instructional hours and the class size for ADETs schools. The proposed amendment of 10A NCAC 27G .3803 increases the hours of classroom instruction from 10 to 16 hours and decreases the maximum class size from 35 to 20 persons.

***Upon motion, second, and unanimous vote, the Commission adopted the proposed amendment of the ADETS rule with no additional changes.***

### **Controlled Substances Reporting 10A NCAC 26E .0600**

Johnny Womble, DMH/DD/SAS Justice Systems Innovations Team, presented the proposed adoption of these rules. The proposed adoption is required to establish a controlled substances reporting system in accordance with provisions of Session Law 2005-276. The legislation directs DHHS to establish a reporting system of prescriptions for all Schedule II through V controlled substances. The reporting system is intended to improve the State's ability to identify controlled substance abusers or misusers, refer them for treatment, identify and stop diversion of prescription drugs in an efficient and cost-effective manner that does not impede the appropriate medical utilization of licit controlled substances.

There was discussion of the alternate rule language proposed for 10A NCAC 26E .0604 by the North Carolina Retail Merchants Association (NCRMA). The NCRMA wants to use the 1995 ASAP Telecommunication Format for Controlled Substances that is used in a number of states who have controlled substances reporting systems. The NCRMA recommended the following language: "The data shall be transmitted in the ASAP Telecommunication Format for Controlled Substances, published by the American Society for Automation in Pharmacy that is in use in the majority of states operating a Controlled Substance Reporting System. The Department shall not require the use of a new ASAP Telecommunications Format without providing twelve months notice through the North Carolina Register to all dispensers as defined by G.S. 90-113.72(4)" Division staff recommended accepting the alternative language in the first sentence but not the second sentence. Mr. Womble explained the primary purpose for implementing a newer version of ASAP would be to collect more data elements than are included in the 1995

version. GS 90-113.73(b) specifies the data elements to be collected and authorizes the Commission to modify those requirements as necessary. The Commission would need to adopt rule to modify the current data elements; therefore, the second sentence of the suggested alternate language is not necessary.

***Upon motion, second, and unanimous vote, the Commission adopted the proposed controlled substances reporting system rules with the changes in rule 10A NCAC 26E .0604 as recommended by Division staff.***

**Non-Medicaid Appeals Process 10A NCAC 27I .0600**

Stuart Berde, DMH/DD/SAS Customer Service and Community Rights Team, presented the proposed adoption of these rules. The proposed adoption provides a non-Medicaid eligible client an opportunity to appeal to DMH/DD/SAS the decision of an area authority or county program to deny, suspend, reduce or terminate services. Adoption of the rule is required by G.S 143b-147(a)(9). The proposed adoption establishes filing requirements as well as procedures for a DMH panel hearing and requires a final decision to be issued by the area authority or county program

***Upon motion, second, and with one dissenting vote, the Commission adopted the proposed non-Medicaid appeals process rules with no additional changes.***

**Public Comment**

There were no comments from the public.

**Announcements**

Louise Fisher distributed a brochure describing the "Walk of Hope". The funds generated by this event are used to conduct research.

Joe Donovan announced that a group called NC Youth Leadership will be holding a one day presentation. This group is comprised of individuals with disabilities who range ages from 16-35.

Ellen Russell expressed concern about violations prevalent in Adult Care homes and mentioned newspaper articles addressing this issue. She questioned the propriety of placement sites for those with developmental disabilities and commented that some of these individuals are improperly placed in nursing homes. Ms. Russell recommended that the Commission consider this issue and periodically discuss the rules associated with it.

Stuart Berde announced the DMH/DD/SAS Rights and Empowerment Conference which is scheduled to convene Friday and Saturday, September 15-16, 2006. Registration information was available for distribution to the Commission

There being no further business the Commission meeting adjourned at 3:35 pm.